IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21240 of 2002

Between:

Syed Inayat Ali S/o Syed Ameer Ali, E-253345, R/o 8-28 Old

Tangapore Street, Atchampet (mandal), Mahaboobnagar District.

PETITIONER

AND

1 The Presideing Officer, Industrial Tribunal,
Labour Court - III, Hyderabad.
2 A.P. State Road Transport Corporation, Rep. by The Depot
Manager, A.P.S.R.T.C., Atchempet, Mahaboobnagar District.

RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of CERTIORARI by quashing the award passed by the Ist respondent in I.D. no: 40/ 2000 dt. 25-7-2002 and published on 13-9-2002 and consequentially declare the order passed by the 2nd respondent, removing the petitioner from the services of the 2nd respondent by order no; 02/2 (5)/99/ ACPT dt. 16-10-99 of the 2nd respondent as null and void, arbitrary, unconstitutional.

Counsel for the Petitioner: MR.R.S.R.S.SARMA

Counsel for the 1st respondent: GP for Labour.

Counsel for the 2nd Respondent: MR. P.VINAYAKA SWAMY SC for APSRTC.

The Court made the following:

ORDER:

Challenging the award passed in I.D.No.40 of 2000 dated 25-07-2002, on the file of the Labour Court, Hyderabad, the present Writ Petition is filed.

The brief facts that are necessary for disposal of the present Writ Petition may be delineated as follows:

The petitioner was initially appointed as a casual labour in 1985. In 1989, he was promoted to the post of conductor. He was on duty as conductor on 15-02-1999 for passenger bus service from Achampet to Srisailam and back. When the bus reached Srisailam destination, the Controller instructed him to take the bus as a special bus-Express service from Srisailam to Achampet and made such an entry in the Service Register. On that day, while he was performing his duty as a conductor from Srisailam to Achampet as Express Service, a check was conducted by the officials of the respondent-corporation and found that some passengers were travelling with lower denomination tickets. Thereupon, a charge sheet dated 15-02-1999 was issued for which the petitioner gave explanation. As the explanation was not satisfactory, a regular Departmental Enquiry was conducted. Thereupon, the 2nd respondent gave a letter dated 30-08-1999 enclosing the enquiry findings and called upon the objections from the for which the petitioner was also allowed to argue the case personally. The show cause notice was also issued and final orders of removal vide proceedings dated 16-10-1999 were passed. Then the petitioner raised Industrial Dispute before the Labour Court. Considering the material on record, the

Labour Court held that the petitioner had intentionally failed to follow the instructions of the duty Controller, and therefore, the charges levelled against the petitioner are proved. Since the charges proved against the petitioner are very serious and he defrauded the revenues of the Corporation to a tune of Rs.135.50ps, he does not deserve any sympathy and accordingly, the I.D. was dismissed. Challenging the same, the present writ petition is filed.

In this writ petition, the learned counsel for the petitioner contended that the findings of the Labour Court are perverse as the same are not based on analysis of the points; and that the petitioner was not allowed to be a defence representative in the domestic enquiry; and that the Enquiry Officer did not give any reasons for arriving at such a conclusion that any available passengers from whom the lower denomination tickets issued are not examined; and that the Enquiry Officer as well as the Tribunal did not take into account the situation prevailing in the bus due to heavy crowd; and that an appeal has been filed but no action has been taken. Lastly, he contended that the punishment imposed is shockingly disproportionate to the proved misconduct and hence, he prays to set aside the same.

On the other hand, the learned standing counsel appearing on behalf of the 1st respondent vehemently contended that it is clear case where the petitioner issued the lower denomination tickets of Rs.19/-whereas the requisite fare is about Rs.70/-. The petitioner, having collected the same, issued the lower denomination tickets, which would clearly indicate the intention of the petitioner to defraud the revenue to the Corporation. The Enquiry Officer conducted the departmental enquiry and the Labour Court also gave convincing reasons in dismissing the industrial dispute and therefore, there are absolutely no grounds to interfere with the order passed by the Labour Court.

Certiorari jurisdiction is very much self-circumspective when the findings are perverse or based upon any evidence and there is misinterpretation of the provisions of law, then only this Court can interfere with the decision of the administrative authorities and quash the same.

It is also well settled that since the punishment imposed is shocked to the conscience of the Court, normally, this Court will not interfere with the punishment imposed by the Disciplinary Authority. As many as nine charges have been levelled against the petitioner, all the eight charges are relating to the issuance of the tickets.

The petitioner collected the requisite fare of Rs.40/- from two passengers but issued tickets of Rs.5/- in three denominations, and collected Rs.51/- from two passengers for requisite fair of Rs.70/- but issued lower denomination worth of Rs.19/-; and collected Rs.70/- from two passengers but issued the lower denominations for Rs.19/-; and collected the requisite fare of Rs.35/- from the passenger but issued lower denomination ticket of Rs.13/-; and collected Rs.76-50ps from, three passengers but issued lower denomination ticket worth Rs.28.50ps. Also, the petitioner having received the requisite fare of Rs.70/- from two passengers, issued lower denomination worth about Rs.5/- and having collected consolidated amount of Rs.125/-, issued the lower denomination tickets worth Rs.24/-, but failed to record the stage numbers as express special service and closed the tray and the numbers of all denominations upto the place of check.

Though it is not for this Court to reappreciate the evidence adduced by the department, or the delinquent in departmental proceedings and sit over in appeal on the judgment, but at the same time, this Court can look into the findings whether such findings are based upon any evidence on record. It is not out of place to mention here that the petitioner made a representation dated 15-3-1999 requesting certain documents for submitting explanation. On the someday, Xerox copies are made available with the petitioner. The evidence of both Md. Jahangir TTI and the petitioner was also taken.

The petitioner was allowed to cross-examine TTI. Therefore, it cannot be said that the principles of natural justice have been violated. After giving due and reasonable opportunity to the petitioner, the Enquiry Officer conducted the proceedings. It is also one of the contentions that no defence assistance was permitted by the petitioner. Therefore, the case caused him great prejudice in conducting the case on his behalf and in the explanation submitted by the petitioner and also the charge sheet. The evidence of Md.Jahangir TTI is very much clear that the conductor has violated the instructions. His evidence is clear that he collected Rs.70/- each from batch of two passengers but issued lower denomination tickets. He also recorded the statements of the passengers which were attested by the conductor. The conductor also attested those statements. The conductor also attested all the relevant records at the time of checking. At the time of incident, there were 97 passengers in the bus. It is admitted in the cross-examination that there is no passenger without ticket but he says that passengers are there with lower denomination tickets. Excepting the

evidence of Jahangir and also duly taking the note of the evidence of delinquent, the Enquiry Officer gave a finding. From the evidence of the Jahangir, it is established that there were some passengers with lower denominations. It is the contention of the delinquent that because of heavy rush, the possibility of committing mistake cannot be ruled out and because of non-availability of correct documents he could not be in a position to issue the tickets for the amounts received from the passengers and that none of the passengers is examined in the enquiry to show that they received higher amounts and hence, the findings of the Enquiry Officer are not in accordance with the evidence available on record. The explanation cannot be said to be proper. Having collected the correct amount from the passengers, it is the duty of the petitioner to give the proper tickets with correct denominations. Even, if the denomination is not available, he has to give it by combination of tickets for the amount collected. Even if there was heavy rush in the bus because of festival day, that does not relieve him from his duties in view of the fact that he has issued the tickets to all the passengers. Even it is not disputed before this court that when the bus reached Srisailam, the Controller on duty at Srisailam directed the petitioner to operate the bus as Express duly providing him MTD 141. But the stage opened by the petitioner in statistical return is an ordinary stage from Srisailam to Achampet. The reason for not issuing tickets for requisite fare is exclusively within the knowledge of the petitioner. The explanation is that he issued the tickets from the amounts tendered by the passengers. Based on the material on record, the enquiry Officer came to a conclusion that the writ petitioner issued the denomination upto the place of the check without issuing proper tickets equivalent to the requisite fares tendered by the passengers. The delinquent also accepted in his spot explanation and the findings of the enquiry officer can be said to be based upon the evidence available on record. The reasons are obvious which can be inferred from the circumstances. The conductor issued the tickets of lower denominations but having collected the requisite fare, the intention of such conductor is to keep the amount with him. The learned counsel appearing on behalf of the petitioner filed a memo under section 11-A. The enquiry conducted by the Enquiry Officer is held to be correct as per the orders of the Tribunal dated 20-9-2001. After perusing the evidence on record and after considering each of the charges levelled against the petitioner are proved and with regard to the punishment, the Tribunal exercised its discretion under section 11-A of the Industrial Disputes Act, 1947. In view of the fact that the findings are completely in accordance with the evidence available on record

and by no stretch of imagination, it can be said that the findings are perverse. After affording reasonable opportunity to the petitioner, the case was dealt with and there are no reasons to interfere with the impugned proceedings.

Unless the punishment imposed shocks the conscience of the Court, normally this Court will not interfere with the punishment imposed by the Disciplinary authority. It is a case where the intention of the petitioner is clear to cause loss to the Corporation having collected the fare; he has not issued the proper denominations. So from the evidence on record, it can be said that there is a financial irregularity which has to be dealt with and the petitioner does not deserve any sympathy and he has no role to play in the case of financial mischief or irregularity perhaps that is the reason why the Tribunal also did not interfere with the punishment imposed by the disciplinary authority. The writ petition is disposed of on merits.

In the facts and circumstances of the case, the writ petition is dismissed. No costs.

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Justice K.C.BHANU

Date: 4–7-2005

Dvs

Copies to:

1 The Presiding Officer, Industrial Tribunal,
Labour Court - III, Hyderabad.
2 The Depot Manager,A.P. State Road Transport Corporation,

Atchempet, Mahaboobnagar District.

3 Two CCs to the Government Pleader for Labour, High Court

Buildings, Hyderabad.

4. Two CD copies.

HONOURABLE SRI JUSTICE K.C.BHANU

W.P.No.21240 OF 2002

4 - 7 - 2005